

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

**GREGORY L BARBER**  
Claimant

**APPEAL NO. 09A-UI-06623-H**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CONTRACT TRANSPORT INC**  
Employer

**OC: 03/29/09**  
**Claimant: Appellant (1)**

Section 96.5(1) – Quit

**STATEMENT OF THE CASE:**

Gregory Barber filed an appeal from the decision of April 23, 2009, reference 01. The decision disqualified him from receiving unemployment benefits. After due notice was issued, a hearing was held in Des Moines, Iowa on May 19, 2009. The claimant participated on his own behalf and was represented by Andrew Stoltze. Contract Transport, Inc. participated by Corporate Treasurer Jeane Nible, Human Resources Director Allen Bergman, Human Resources Assistant Mike Fried, and Dispatcher Jorge Harwood. Exhibits One through Five and A were admitted into the record. Brenda Barber and Jessica Bromley observed the proceedings but did not offer testimony.

**ISSUE:**

The issue is whether the claimant quit work without good cause attributable to the employer.

**FINDINGS OF FACT:**

Having heard the testimony of the witnesses and having examined all of the evidence in the record, the administrative law judge finds: Gregory Barber was employed by Contract Transport, Inc. from March 5, 2008 until March 29, 2009. At the time of hire he was “on the wheel” which meant he had to call dispatch every morning before 10:00 a.m. to determine if there was any work available for him. Two or three months after his employment began he bid, and received, a job under a contract with United States Postal Service. This job had regular hours and a set schedule.

The contract with the United States Postal Service ended effective March 29, 2009 because another transportation company was awarded the contract. Dispatcher Jorge Harwood informed Mr. Barber of this approximately March 22, 2009. He advised the claimant he had the “right of first refusal” with the new contractor under a Presidential Executive Order. Mr. Harwood provided the claimant with the name and telephone number of the new contractor. He additionally informed Mr. Barber that if he wished to remain with Contract Transport, Inc., he would have to begin calling in daily after March 29, 2009, as he had when he was on the wheel at the time of hire.

The claimant elected to contact the new transportation company with the postal contract in the hopes of being offered the job. He did not intend to continue working for Contract Transport, Inc. because he did not want to return to the status of on the wheel. However, he never informed the employer of this and simply stopped calling in to dispatch. Several attempts were made by the dispatch to contact him but all the calls resulted in was a voice mail message being left. The claimant never returned the calls.

Human Resources Assistant Mike Fried tried to call the claimant on the company phone twice on April 3, 2009. He only got a voice mail as well. However, after five minutes, he used his personal cell phone to dial the same number and Mr. Barber then answered. Mr. Fried discussed the matter with him telling him if he wished to continue working with Contract Transport, Inc. he would have to start calling dispatch again. He was assured that he was not laid off, that work was available to him in the same capacity as when he was hired. The claimant did not inform Mr. Fried at any time he did not intend to continue working but hung up.

When the claimant did not contact dispatch for several more days, he was sent a letter notifying him that his employment was at an end. The claimant has contacted the new contractor for the postal route but has received no response from them as of the date of the hearing.

#### **REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5-1-a provides:

An individual shall be disqualified for benefits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department. But the individual shall not be disqualified if the department finds that:

a. The individual left employment in good faith for the sole purpose of accepting other or better employment, which the individual did accept, and the individual performed services in the new employment. Benefits relating to wage credits earned with the employer that the individual has left shall be charged to the unemployment compensation fund. This paragraph applies to both contributory and reimbursable employers, notwithstanding section 96.8, subsection 5.

The claimant did not intend to continue working for Contract Transport, Inc. even though work was available to him. It was the same work for which he had been hired back in March 2008. The fact that he never informed the employer he was quitting does not mitigate this. He left in the expectation of accepting another job which did not materialize. Under the provisions of the above code section his quit in anticipation of another job does not constitute good cause attributable to the employer for quitting.

**DECISION:**

The representative's decision of April 23, 2009, reference 01, is affirmed. Gregory Barber is disqualified and benefits are withheld until he has requalified by earning ten times his weekly benefit amount, provided he is otherwise eligible.

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Bonny G. Hendricksmeier  
Administrative Law Judge

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Decision Dated and Mailed

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